

REMARKS

This Response is offered in reply to the office action of August 10, 2005. A petition and fee for a three month time extension are enclosed, making this response due on February 10, 2006.

Applicant appreciates allowance of claims 1-9, 24, 25, 28-34, 51, 53-56, and 57 and the indicated allowability of the subject matter of claims 17, 19, and 50 as set forth on page 7 of the office action.

On page 2 of the office action, the amendment filed 5/20/05 is objected to under 35 USC 132(a) on the basis that it introduces new matter with respect to the "electrical actuator being connected to the building electrical service". This objection is believed to be in error since page 7, second paragraph of the specification states that "electrical lighting fixtures and other electrical devices (not shown in Figures 1-4) provided on the enclosure as described below with respect to Figures 5-20 are adapted to be connected to building electrical service". The electrical actuator recited in claim 35 and corresponding to solenoid control valve described with respect to Figures 5-20 in fact is described as being connected to building electrical service such that no new matter was introduced by the amendment of 5/20/05. To advance prosecution, claim 35 has been amended to overcome the objection, albeit in error.

Reconsideration of the objection is requested.

Also on page 2 of the office action, claim 52 is rejected under 35 USC 102(b) in view of US Patent 5 111 626.

This rejection is believed to be incorrect. In particular, claim 52 now recites a modular living enclosure for occupancy by a person, comprising a plurality of molded plastic enclosure sections that are assembled to define an enclosure floor, four upright side

walls, and a top wall, wherein multiple lower ones of said enclosure sections define said floor and lower portions of said four upright side walls, multiple top ones of said enclosure sections define said top wall, and multiple other ones of said enclosure sections are disposed between said lower ones and said top ones to define remaining portions of said four upright side walls wherein at least one of said enclosure sections that at least partially forms a side wall of said enclosure is molded to form an integral molded bed surface for sleeping.

The '626 patent does not disclose the features of pending claim 52 including a plurality of molded plastic enclosure sections that are assembled to define an enclosure floor, four upright side walls, and a top wall, wherein at least one of said enclosure sections that at least partially forms a side wall of said enclosure is molded to form an integral molded bed surface for sleeping.

The '626 patent is utterly deficient with respect to pending claim 52 since in Figure 3 of the cited patent, the settee 32 shown is convertible to a berth 35 and in Figure 4, the settee backrest 33 is shown pivoting down to around pivot point 34 to form the berth 35. Contrary to the examiner's allegation, the backrest 33 and settee 32 comprise a separate subassembly which is attached to the inner shell 23 of the modular unit. The same is true of desk 42 which folds down from the inner shell. The desk 42 comprises a separate subassembly which is attached to the inner shell 23 of the modular unit. For example, Figures 5, 6, 7, and 8 show a fold-down berth 52 and desk 42 as separate subassemblies attached to the inner shell.

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As is apparent, the '626 patent discloses berth 35, 52 and desk 42 which comprise separate subassemblies attached to the inner shell 23 of the modular unit in a manner contrary to claim 52 wherein at least one of the enclosure sections is recited as being molded to form an integral molded bed surface. The examiner will appreciate that the fold-down berth 35, 52 and desk 42 of '626 patent cannot be integrally molded with shells 23, 24 and still fold-down.

The '626 patent thus does not disclose a modular living enclosure as set forth in pending claim 52.

Reconsideration of the rejection of claim 52 is requested.

On page 3 of the office action, claims 11, 14, 15, 41, and 42 are rejected under 35 USC 103(a) in view of US Patent 2 486 371 taken with US Patent 5 398 465.

This rejection is believed to be incorrect. In particular, the '371 patent discloses a bathroom construction of metal sheets or plates formed to the desired shapes by cutting, drawing, or stamping and then assembled together by welding, soldering, or brazing to form a lower portion of the bathroom without a top wall, thus not providing an enclosure as recited in Applicant's claim 11.

Applicant's pending claim 11 includes a plurality of molded plastic enclosure sections that are assembled to define, in part, a top wall. The examiner should not and cannot ignore this express claim recitation.

Moreover, pending claim 11 recites at least one of said enclosure sections that at least partially forms a side wall of said enclosure being molded to form a bathroom feature including a toilet and at least one of said enclosure sections that at least partially forms a side wall of said enclosure being molded to form an integral molded bed surface for sleeping.

The bathroom construction of the '371 patent includes an interior hollow floor structure 22 that forms a wall of the bathtub and a seat formed by a flat top 22a of the structure 22. The seat formed by the flat top 22a of the metal structure cannot be reasonably considered as an integral molded bed surface for sleeping as set forth in claim 11.

The examiner acknowledges that the surface 22a is not an integral bed surface, but then proceeds to argue that there is nothing to preclude surface 22a from being a bed. Applicant firstly would point out that this is not the proper standard for evaluating what the '371 patent teaches. Applicant secondly would point out the '371 patent relates to a bathroom construction and not a bedroom construction and that the surface 22a is adjacent to a bathtub 12 such that the surface 22a would not be reasonably considered a bed for sleeping, either when the bathtub is filled with water or is empty due to possibility of falling into the bathtub while sleeping. The examiner's argument appears to Applicant to constitute a prohibited hindsight analysis of the claims that flies against common knowledge.

The examiner acknowledges that the '371 patent does not teach that the bathroom construction is made of plastic and cites the '465 patent in an attempt to remedy this deficiency in the '371 patent. Applicant firstly would point out that the '371 patent does not provide a modular living enclosure as set forth in claim 11 having a top wall in combination with the other features set forth. Instead, the '371 patent describes a bathroom construction having no top wall at all. Thus, even if the bathroom construction of the '371 patent were made of plastic, it would not yield Applicant's claimed modular living enclosure.

Moreover, both the '371 patent and the '465 patent relate to a bathroom construction or portable bathroom cabin, respectively. Neither reasonably teaches a modular living enclosure for occupancy by a person comprising a plurality of molded plastic enclosure sections that are assembled to define an enclosure floor, four upright side walls, a top wall and a door opening when assembled, at least one of the enclosure sections being molded to form a bathroom feature including a toilet and at least one of the enclosure sections being molded to form an integral molded bed surface for sleeping. There is simply is no suggestion in the cited patents taken alone or together of claim 11.

Applicant's claims 14, 15, 41 and 42 recite further features in combination with the features recited Applicant's claim 11. The combinations of features set forth in claims 14, 15, 41, and 42 are not disclosed or suggested by the cited '371 patent and '465 patent taken alone or together.

Reconsideration of the rejection of claims 11, 14, 15, 41 and 42 is requested.

On page 4 of the office action, claim 13 is rejected under 35 USC 103(a) in view of US Patent 2 486 371 taken with US Patent 5 398 465 and the further US Patent 3 533 200.

This rejection is believed to be incorrect. In particular, the deficiencies of the '371 patent and the '465 patent are described above. The examiner acknowledges that these patents do not disclose a "garbage disposal system".

The examiner cites the '200 patent as allegedly showing a garbage disposal 40, 41, 45 that communicates to the toilet 15. Applicant believes the examiner is utterly incorrect. In contrast, the patent discloses hot and cold water piping 40, 41 provided to carry water to washbasin 17 and waste piping 45 provided to carry

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waste water from the drains of the washbasin and bathtub. A separate waste pipe is provided for the toilet 15. However, nowhere in the '200 patent is there any teaching of an electric garbage comminuting disposal communicated to the toilet and operable to comminute toilet waste before it flows to a sewer as set forth in pending claim 13. The drain pipes of the '200 patent do not remotely suggest Applicant's claim 13.

Reconsideration of the rejection of claim 13 is requested.

On page 5 of the office action, claim 18 is rejected under 35 USC 103(a) in view of US Patent 3 533 200 taken with US Patent 5 398 352 and the further US Patent 5 398 465.

This rejection is believed incorrect. The examiner acknowledges that the '200 patent has no electrical garbage disposal and no flow drain to a sump chamber having a sump pump therein. The examiner cites the '352 patent as having a floor drain. However, the examiner will note that the floor drain (covered by grating 17) of the '352 patent drains to a sewer via through-opening 19, column 2, lines 24-26 and Figure 2.

The examiner will also note that the '465 patent discloses foot pumps 118, 120 which are not disposed in a sump chamber since they must be accessible for manual pumping.

Applicant thus believes the examiner's attempted combination of the '465 patent with the '352 patent is not correct since the latter drains the floor drain (covered by grating 17) to a sewer via through opening 19 and the former uses foot pumps 118, 120 which are not disposed in a sump chamber. The '352 patent and the '465 patent are not properly combined given their utterly disparate teachings and even when improperly combined do not yield claim 18.

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Moreover, not one of the cited patents discloses or suggests an electric garbage comminuting disposal communicated to the toilet for comminuting toilet waste before the toilet waste flows to a sewer as set forth in pending claim 18.

Reconsideration of the rejection of claim 18 is requested.

On page 5 of the office action, claim 20 is rejected under 35 USC 103(a) in view of US Patent 5 111 626.

This rejection is believed to be incorrect. In particular, claim 20 now recites a modular living enclosure for occupancy by a person, comprising a plurality of molded plastic enclosure sections that are assembled to define an enclosure floor, four upright side walls, and a top wall, wherein multiple lower ones of said enclosure sections define said floor and lower portions of said four upright side walls, multiple top ones of said enclosure sections define said top wall, and multiple other ones of said enclosure sections are disposed between said lower ones and said top ones to define remaining portions of said four upright side walls wherein at least one of said enclosure sections that at least partially forms a side wall of said enclosure is molded to form an integral molded bed surface for sleeping and wherein at least one of said enclosure sections that at least partially forms a side wall of said enclosure is molded to form an integral molded desk surface above the floor.

The '626 patent is utterly deficient with respect to pending claim 20 since in Figure 3 of the cited patent, the settee 32 shown is convertible to a berth 35 and in Figure 4, the settee backrest 33 is shown pivoting down to around pivot point 34 to form the berth 35. The same is true of desk 42 which folds down from the inner shell. The desk 42 comprises a separate subassembly which is attached to the inner shell 23 of the modular unit. For example, Figures 5, 6, 7, and 8 show a fold-down berth 52 and desk 42 as separate subassemblies attached to the inner shell.

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As is apparent, the '626 patent discloses berth 35, 52 and desk 42 which comprise separate subassemblies attached to the inner shell 23 of the modular unit in a manner contrary to claim 20 wherein at least one of the enclosure sections is recited as being molded to form an integral molded bed surface above the floor and an integral molded desk surface above the floor. The examiner will appreciate that the fold-down berth 35, 52 and desk 42 of '626 patent cannot be integrally molded with shells 23, 24 and still fold-down.

The '626 patent thus does not disclose or suggest a modular living enclosure as set forth in pending claim 20.

Reconsideration of the rejection of claim 20 is requested.

On page 6 of the office action, claims 35-42 are rejected under 35 USC 103(a) in view of US Patent 3 533 200 taken with US Patent 5 111 626.

This rejection is believed incorrect. Firstly, the '200 patent does not teach a people housing system, but rather only a room facility such as a bathroom. The '626 patent discloses a traveler rest facility connected to a service unit or cart, which itself is connected only to outside electricity. The service unit or cart supplies water and collects waste but is not connected to outside water/waste service when in use and supplies only 12 V power. Applicant does not believe the '200 patent and the '626 patent are properly combined as proposed by the examiner given the above-noted gross disparities between their teachings.

In contrast, claim 35 recites a plurality of molded plastic enclosure sections that are assembled to define an enclosure floor, four upright side walls, a top wall and a door opening when assembled, at least one of said enclosure sections being molded to form a bathroom feature which is connected to building water

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service, wherein each individual modular living enclosure has an electrical actuator connected to building electrical service to control water flow from the building water service to the bathroom feature therein, and a programmable computer control unit connected to the electrical actuator of each of the plurality of modular living enclosures for controlling said electrical actuator of each of the plurality of modular living enclosures in a manner to control water flow to a respective individual modular living enclosure in programmed manner. Such central programmable computer control is illustrated in Applicant's Figure 20.

The proposed and improper combination of the '200 patent with the '465 patent simply does not yield Applicant's pending claim 35.

With respect to pending claim 38, the '626 patent does not disclose a programmable computer control unit that controls electrical power to a water sprinkler of respective individual enclosures in response to a temperature or smoke sensor of respective individual modular living enclosures. In contrast, the '626 patent discloses a halon chemical system that is unlike Applicant's claimed water sprinkler system.

With respect to claim 40, the '626 patent does not disclose a programmable computer control unit that controls electrical power to a sump pump in a sump chamber of a respective individual modular living enclosure.

Reconsideration of the rejection of claims 35-42 is requested.

On page 7 of the office action, claims 43-49 are rejected under 35 USC 103(a) in view of US Patent 3 533 200 taken with US Patent 5 111 626.

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Claim 43 has been amended in a manner to render claims 43-49 allowable. The '200 patent and the '465 patent taken alone or together do not disclose or suggest a method of making a living enclosure for occupancy by a person as recited in claim 43 comprising assembling in a building a plurality of molded plastic enclosure sections to define an enclosure floor, four side walls, a top wall and a door opening into said enclosure, at least one of said enclosure sections being molded to form a bathroom toilet feature, connecting said bathroom toilet feature to a building water service, connecting an electrical garbage comminuting disposal to a discharge conduit of said bathroom toilet feature, connecting a discharge conduit pipe of said bathroom feature electrical garbage comminuting disposal to a building sewer service so that toilet waste is comminuted before it flows to the sewer service, and connecting building electrical service to a lighting fixture on said enclosure and to the electric garbage comminuting disposal communicated to the discharge conduit of said bathroom feature.

Reconsideration of the rejection of claims 43-49 is requested.

The pending claims are believed to be in allowable condition, and action to that end is requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "E. J. Timmer", is written over a horizontal line.

Edward J. Timmer Reg. No. 27,402

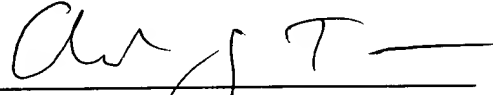
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Edward J. Timmer